

expense of an innocent party.

I find that it is just and convenient that the judgment of the High Court of Judicature, Queen's Bench Division dated October 22, 1981 and the Order of the Court of Appeal dated May 24, 1983 should be enforced in Singapore. I am satisfied that it has not been sufficiently proved that the aforesaid judgment and Order were in respect of a cause of action which for reasons of public policy or for some other similar reason could not have been entertained in a Singapore court. I therefore dismiss with costs this application to set aside the registration of the aforesaid judgment and Order under the Reciprocal Enforcement of Commonwealth Judgments Act (Cap. 24).

Application dismissed.

Solicitors: *Drew & Napier; Selvadurai Pala Krishnan & Partners.*

SUN-LINE (MANAGEMENT) LTD. v. CANPOTEX SHIPPING SERVICES LTD.

[O.C.J. (Rajah J.) May 7, 1986]

[Singapore – Originating Summons No. 165 of 1986]

Reciprocal Enforcement of Judgments – Charterparty – Arbitration – Abandonment of arbitration – Default judgment – Registration of judgment in Singapore – Application to set aside registration of judgment – Whether judgment debtors have submitted to jurisdiction of English Courts – Reciprocal Enforcement of Commonwealth Judgments Act (Cap. 24) s. 3(2) (b) – R.S.C. 1970, O. 67 r. 1.

Conflict of Laws – Charterparty – Agreement to arbitration in London and be subject to English Law – Whether submission to jurisdiction of English Courts.

Sun-Line (Management) Ltd. (judgment creditors) are a company incorporated in Hong Kong and Canpotex Shipping Services Ltd. (judgment debtors) are a company incorporated in Canada. The parties entered into in Hong Kong a Charterparty agreement, Clause 37 of which reads as follows:-

“Any dispute of law or fact arising under this Charter Party shall be referred to arbitration. Such arbitration must commence within one (1) year of final discharge or from the date of cancellation if the voyage is not

A performed. Unless otherwise agreed, arbitration shall take place in London in the following manner and be subject to English law. One Arbitrator is to be appointed by each of the parties hereto and a third by the two so chosen. Their decision or that of any two of them shall be final and for the purpose of enforcing any award, this agreement may be made a rule of the Court. The Arbitrators shall be commercial men conversant with Shipping practice.”

B Disputes arose between the parties as to what monies were payable on freight and demurrage under the Charter party. The judgment creditors did not proceed to arbitration. Instead they proceeded to litigate and obtained a default judgment against the judgment debtors on March 20, 1985, in the High Court, England. On February 7, 1986, the judgment creditors obtained in Singapore an *ex parte* order that the default judgment be registered as a judgment of the Singapore High Court. The judgment debtors apply to set aside the registration of the default judgment.

C Held, allowing the application: (1) the issue for decision is whether or not on the construction of the said Clause 37 the judgment debtors by agreeing to arbitration taking place in London according to English law, had agreed to submit themselves to the jurisdiction of the English courts;

E (2) under the said Clause 37, both parties could at any time as between themselves have changed the venue of the arbitration and that the only agreement between the parties under the said clause was the submission by either party to arbitration in London according to English law and nothing more. It was no part of the agreement express or implied that legal proceedings could be commenced by either party in the English courts to enforce claims arising under the Charterparty;

F (3) the judgment creditors abandoned their rights of arbitration under the said Clause 37. Once this happened the judgment creditors had no other rights accruing to them under the said Clause 37. In the result the judgment debtors had not under the said Clause 37 submitted themselves to the jurisdiction of the English courts, and so could only be sued either in Hong Kong, where the Charterparty was signed, or in Canada, where they are resident and carry on business.

G Cases referred to:-

- (1) *Dunbee Ltd. v. Gilman & Co. (Australia) Pty. Ltd.* [1968] 2 Lloyds Rep. 394.
- (2) *Sirdar Gurdyal Singh v. The Rajah of Faridkote* [1894] A.C. 670, 686.
- (3) *Feyerich v. Hubbard* (1902) 71 L.J.K.B. 509; 86 L.T. 829.
- (4) *Jeannot v. Fuerst* (1909) 100 L.T. 816.
- (5) *International Alltex Corporation v. Lawler Creations Ltd.* [1965] Irish Reports 264.
- (6) *Tracom SA v. Sudan Oil Seeds (No. 2)* [1983] 3 All E.R. 140.
- (7) *Pena Copper Mines Ltd. v. Rio Tinto Co. Ltd.* [1911-13] All E.R. Rep. 209.
- (8) *Ellerman Lines Ltd. v. Read* [1928] All E.R. Rep. 415.
- (9) *Royal Exchange Assurance Co. Ltd. v. Compania Naviera Santi SA, The Tropaioforos (No. 2)* [1962] 1 Lloyd's Rep. 410.

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ORIGINATING SUMMONS.

N.K. Pillai for judgment creditors.

Michael Kuah Kim Huat for judgment debtors.

Cur. Adv. Vult.

Rajah J. : This is an application by Canpotex Shipping Services Limited (Judgment Debtors) for an order that the registration of an English High Court Default Judgment, dated March 20, 1985 in the sum US\$74,659.77 together with costs of £142.50 with interest of US\$8,033.95 and further costs of £60 and entered against them in favour of Sun-Line (Management) Limited (Judgment Creditors), as a judgment of The High Court of the Republic of Singapore under the Reciprocal Enforcement of Commonwealth Judgments Act (Cap. 24) (the Act) be set aside.

The Judgment Creditors are a company incorporated under the laws of Hong Kong having a place of business in Hong Kong at 172-176 Wing Lok Street, Central, Hong Kong.

The Judgment Debtors are a company incorporated under the laws of Canada having a place of business within British Columbia at Suites 1111 and 1112, 100 Park Royal, West Vancouver, British Columbia, Canada.

On July 28, 1983 the Judgment Creditors and the Judgment Debtors entered into a Charterparty agreement in Hong Kong whereby the latter hired a number of seagoing vessels from the former between August 20, 1983 and November 3, 1983. Clause 37 of the Charterparty provided for arbitration in London and it reads:-

"Any dispute of law or fact arising under this Charter Party shall be referred to arbitration. Such arbitration must commence within one (1) year of final discharge or from the date of cancellation if the voyage is not performed.

Unless otherwise agreed, arbitration shall take place in London in the following manner and be subject to English law. One Arbitrator is to be appointed by each of the parties hereto and a third by the two so chosen. Their decision or that of any two of them shall be final and for the purpose of enforcing any award, this agreement may be made a rule of the Court. The Arbitrators shall be commercial men conversant with shipping practice."

Disputes then arose between both the parties as to what monies were payable on freight and demurrage under the Charterparty. The Judgment Creditors sent telex notices in September 1984

A through their agents in Hong Kong to the Judgment Debtors in Canada requiring them to arbitrate the disputes in London as provided for in the said Clause 37 but to no avail.

B On September 18, 1984 the Judgment Creditors appointed their Arbitrator under the said Clause 37 and requested for an interim award even though the Judgment Debtors had not appointed theirs. On September 20, 1984 the said Arbitrator sent a telex to the Judgment Debtors on the question of as to why he should not proceed immediately to make an interim award and gave them time up to October 5, 1984.

D On October 17, 1984, the Judgment Debtors sent a telex to the Arbitrator acknowledging receipt of his further telex of October 17, 1984 and stating that they intended to challenge the validity of his decision to proceed to an interim award. As a result the Judgment Creditors did not proceed further with the arbitration as they felt that an award in such circumstances could be open to challenge under the English Arbitration Acts. They also felt that the Court's aid could not successfully be invoked to obtain the appointment of the other arbitrator by the Judgment Debtors. In the event they did not proceed with their right to arbitrate but instead went on to litigate their claims under the Charterparty in the High Court in England.

F In their application for such leave their solicitor, Mr. Patrick Duncan Quinan, deposed as follows:-

G "In any event, I would draw the notice of this Honourable Court to Clause 37 of the Charterparty which provides for London Arbitration in accordance with English law, one Arbitrator to be appointed by each of the parties for the Charterparty and the third by the two so chosen. The Owners have purported to appoint Mr. Clifford Clark as their Arbitrator but the Charterers have refused to participate in an arbitration despite repeated requests to do so and have said that they will challenge any award given by Mr. Clark as sole Arbitrator on the grounds that he has been invalidly appointed as sole Arbitrator under the 1979 Arbitration Acts. In the circumstances the Owners are not prepared to proceed to an award which could be open to challenge under the Arbitration Acts and note that the Court's aid cannot successfully be invoked to obtain the appointment of an Arbitrator by the Charterers. In the circumstances the Owners wish to have an opportunity of bringing a claim before the English Courts."

I On January 17, 1985, the Judgment Creditors were granted leave by the High Court in England under its Order 11 rule 1(1) d(iii) to issue a Writ of Summons and to serve a sealed copy thereof on the Judgment Debtors at their address in Canada on the ground that, by virtue of the terms of said

Clause 37, the Charterparty is governed by English law. The said Order reads:-

"11(1) Provided that the writ does not contain any claim mentioned in Order 75, r. 2(1) and is not a writ to which paragraph (2) of this rule applies, service of a writ out of the jurisdiction is permissible with the leave of the Court if in the action begun by the writ -

(d) the claim is brought to enforce, rescind, dissolve, annul or otherwise affect a contract, or to recover damages or obtain other relief in respect of the breach of a contract, being (in either case) a contract which -

(iii) is by its terms, or by implication, governed by English law."

In late January 1985, a Writ of Summons, issued out of the Registry of the High Court of Justice, Queen's Bench Division, Commercial Court, England, was delivered to the offices of the Judgment Debtors at 100 Park Royal, West Vancouver, British Columbia but they took no steps, whatsoever, to enter appearance or to defend the proceedings commenced by the said Writ of Summons.

On March 20, 1985, a Default Judgment was entered against the Judgment Debtors in the sum of US\$74,659.77 together with costs of £142.50 with interest of US\$8,033.95 and a further £60 costs in the High Court of Justice, Queen's Bench Division, Commercial Court, England.

At all material times, the Judgment Debtors never had any office in the United Kingdom, never had been registered to do business in the United Kingdom, never had carried on any business in the United Kingdom, never had any assets in the United Kingdom and further never had any of their Directors, Officers or employees either been physically present or resident in the United Kingdom.

On February 7, 1986 the Judgment Creditors obtained in Singapore an *ex parte* order in O.S. 165 of 1986 that the said Default Judgment be registered as a judgment of the High Court of the Republic of Singapore pursuant to the Act. Under the said Singapore Order the Judgment Debtors were given liberty to apply to set aside the said registration within 10 days after service upon them in Canada of notice of such registration pursuant to Rule 1 Order 67 of the Rules of the Supreme Court if they had grounds for so doing.

By telex dated February 7, 1986, the Judgment Debtors were informed by the Singapore solicitors for the Judgment Creditors that the said Default Judgment had been registered in the High Court of Singapore under the Act.

A The Judgment Debtors are now praying that the registration of the said Default Judgment be set aside on the grounds (1) that at no time had they voluntarily or otherwise appeared on the English Writ of Summons and (2) that at no time had they submitted or agreed to submit themselves to the jurisdiction of the English High Court of Justice in the proceedings which has led to the said Default Judgment. They rely on section 3(2) (b) of the Act which reads:-

B "No judgment shall be ordered to be registered under this section if the judgment debtor, being a person who was neither carrying on business nor ordinarily resident within the jurisdiction of the original court, did not voluntarily appear or otherwise submit or agree to submit to the jurisdiction of that court."

C It is not disputed by the Judgment Creditors (1) that at all material times the Judgment Debtors were not carrying on business in England, (2) that at all material times they were not ordinarily resident in England, (3) that they never had any assets in the United Kingdom and (4) that they did not voluntarily appear on the said Writ of Summons.

D The Judgment Debtors also contend that they did not "otherwise submit or agree to submit to the jurisdiction" of the English Court. In answer to this contention the Judgment Creditors say that by virtue of the said Clause 37 the Judgment Debtors have either submitted or agreed to submit to the jurisdiction of the English Court within the meaning of the said section 3(2) (b).

E In the circumstances of the instant case the issue, and both counsel agree, is, whether or not on a true construction of the said Clause 37 the Judgment Debtors had agreed to submit themselves to the jurisdiction of the English courts, that is to say whether the Judgment Debtors by agreeing under the said Charterparty to arbitration taking place in London according to English law had submitted themselves to the jurisdiction of the High Court of England.

F It is to be noted that under the said Clause 37 each party has to appoint its arbitrator and a third one is to be appointed by the two arbitrators so chosen. Their decision or that of any two of them was to be final and that for the purpose of enforcing the award, "this agreement (*sic*) may be made a rule of the Court." It is to be noted that the said Clause 37 contains no terms to the effect that the High Court in England shall have jurisdiction to hear and determine any action in respect of disputes arising under the Charterparty.

In the event only one arbitrator and that by the Judgment Creditors was appointed and the other by the Judgment Debtors was not. The Judgment Creditors did not prosecute their right to have their claims arbitrated in England according to English law but instead applied for and obtained leave of the High Court in London under the said Order 11 Rule 1(1) d(iii) to issue a Writ of Summons against the Judgment Debtor and to serve on them in Canada outside the jurisdiction a sealed copy thereof.

On the facts of this case, other than those arising under clause 37 of the Charterparty, there is no way by which it can be contended that the Judgment Debtors had subjected themselves to the jurisdiction of the English courts. It is conceded, and rightly conceded, by counsel for the Judgment Creditors that it is only by virtue of the said Clause 37 that it could, if at all, be claimed that the Judgment Debtors have subjected themselves to the jurisdiction of the English courts.

Under the said clause there is agreement on the part of the Judgment Debtors to have the claims against themselves under the Charterparty arbitrated in London according to English law. *Dicey and Morris* at page 1051 in their *Conflict of Laws* (10th Ed) say that "if the parties agree, expressly or by implication, that their cases shall be governed by foreign law, it by no means follows that they agree to submit to the jurisdiction of the Courts which apply it" and in support of their statement they cite the case of *Dunbee Ltd. v. Gilman & Co. (Australia) Pty. Ltd.*⁽¹⁾

An agreement to submit to the jurisdiction of a foreign court must be express (para 1051 of *Dicey & Morris*) and will not be implied. See *Sirdar Gurdayal Singh v. The Rajah of Faridkote*.⁽²⁾ Thus a court will refuse to imply such an agreement from an agreement that a contract is to be governed by the law of a foreign country. See *Dunbee Ltd. v. Gilman & Co. (Australia) Pty. Ltd.* and paragraph 722 of Volume 8 of *Halsbury's Laws of England* (4th Ed) on *Conflict of Laws*.

Para 721 of the same *Halsbury* says "The jurisdiction of the foreign court will also be recognised where the defendant has agreed to submit to its jurisdiction, as where he is a party to a contract providing all disputes between the parties are to be referred to the exclusive jurisdiction of that court". *Feyerich v. Hubbard*⁽³⁾; *Jeannot v. Fuerst*.⁽⁴⁾ But in the instant case there is no express term in the said clause to the effect that the High Court in

A England is to have jurisdiction to hear and determine any action in respect of claims arising under the Charterparty.

B No case has been cited to me, for or against, that a mere submission to arbitration in London according to English law is a submission to the jurisdiction of English courts. However counsel for the Judgment Creditors submits that the words "this agreement may be made a rule of the Court" brings the English courts into play and that thereby there is an implication of submission by the Judgment Debtors to the jurisdiction of the English courts. Quite frankly I do not quite understand the meaning of the sentence, "this agreement may be made a rule of the Court." The only guess I can make of what it might mean is that it has some reference to the arbitration and, if so, it perhaps means that the award when made by the arbitrators could be enforced as a judgment.

C He further cites the Irish case of *International Alltex Corporation v. Lawler Creations Limited*⁽⁵⁾ and the English Court of Appeal case of *Tracom SA v. Sudan Oil Seeds (No. 2)*⁽⁶⁾ as supporting his submission that by virtue of said Clause 37 the English courts have jurisdiction to entertain actions by either party on claims arising under the Charterparty.

D *The Irish Case*

E The plaintiff corporation, incorporated in the State of New York, agreed with an Irish buyer, a Mr. Fintan Lawler, to sell him certain goods by a contract which was made in Ireland and which provided for the settlement of disputes by arbitration in New York City in accordance with the terms of the contract, which proceedings terminated in a monetary award being made by the arbitrator in favour of the plaintiffs. Subsequently, the plaintiffs instituted proceedings in the Supreme Court of the State of New York and that Court on August 18, 1964, made an order confirming the arbitrator's award and directing that judgment be entered against the buyer for \$3,625.83. The plaintiffs then issued and served in Ireland a summons claiming from the defendant company (which accepted responsibility for any liability of the buyer) in Irish pounds the sum so entered in the judgment. The buyer had not appeared in either the arbitration proceedings or in the proceedings before the Supreme Court of the State of New York but he had received notice of both proceedings; he was an Irish citizen and had no residence or place of business in the United States of America.

At the hearing of the summons the defendant Company contended that it was not liable for the payment of the sums claimed because the buyer (Lawler) had not submitted to the jurisdiction of the foreign court, namely the Supreme Court of the State of New York.

Kenny J. in the course of his judgment at page 269 had this to say:

"The next submission for the defendants was that though Mr. Lawler might have submitted to the jurisdiction of the arbitrator in New York, he had not submitted to the jurisdiction of the courts in the State of New York and that the plaintiffs were suing, not on the arbitrator's award but on the judgment of the 18th August, 1964. I think that that judgment is a confirmation of the award made by the arbitrator and that the judgment is for the amount awarded by the arbitrator because the award was valid. When Mr. Lawler submitted to the jurisdiction of the arbitrator in New York he necessarily submitted to a court order confirming the award of the arbitrator and he is, in my opinion, bound by a judgment of a court made to confirm and enforce the award."

It is to be noted that the New York Court's jurisdiction was here confined to lending its aid to the enforcement of an award made in New York City in accordance with the terms of the contract.

The English Court of Appeal Case

The appeal was against a Judgment of Leggatt J. in the Commercial Court of the Queen's Bench Division reported in [1983] 2 All E.R. 129. The facts as stated in the headnote to the report read:

"A dispute arose between the Swiss buyers and Sudanese sellers of a consignment of peanuts. The contract of sale was evidenced by a sold note which stated that the conditions of the contract were to be 'as per' a standard form. The standard form stated that disputes were to be referred to arbitration in London. The buyers, however, brought an action in the Swiss court claiming damages for breach of contract. The sellers entered what was in effect a plea in bar in the Swiss court, asking for a stay of proceedings on the ground that the dispute should be settled under the arbitration clause incorporated into the contract. The Swiss court dismissed the seller's application because, in the absence of the citation of English law by either party, it assumed English law to be the same as Swiss law and held that the arbitration clause was not to be regarded as having been incorporated into the contract. The sellers then sought to have arbitrators proceed with arbitration in London. The buyers brought an action seeking an order to restrain the sellers from proceeding with the arbitration, and the sellers counterclaimed for an order to restrain the buyers from proceeding further with the Swiss action."

On the counterclaim, Leggatt J. held that, although the English court had jurisdiction to grant an injunction restraining either party from instituting or maintaining proceedings abroad in breach

A of the arbitration agreement, the sellers had to submit to the consequences of their own negligence, even though that might result in duplicity of proceedings, because the Swiss court had reached its conclusion on account of the sellers' negligence in failing to cite English law. He accordingly dismissed the counterclaim.

B
Leggatt J., after considering the cases of *Pena Copper Mines Ltd. v. Rio Tinto Co. Ltd.*⁽⁷⁾; *Ellerman Lines Ltd. v. Road*⁽⁸⁾ and *Royal Exchange Assurance Co. Ltd. v. Compania Naviera Santi SA, The Tropaioforos (No. 2)*⁽⁹⁾ said:

C "From those cases I conclude that, where a contract contains an agreement, especially where it is supported by a *Scott v. Avery* clause, to submit disputes to arbitration in London, the parties to the contract have sufficient connection with this country to give the English courts jurisdiction to grant an injunction restraining either party, (emphasis mine) even though resident abroad, from instituting or maintaining proceedings abroad in breach of the arbitration clause. This is, however, a discretionary jurisdiction to be exercised with great caution. The more remote the connection with this country, and the more that foreign courts have become involved in the matter, the greater is the caution called for." (Page 136).

E It will be noted that the jurisdiction is confined to the granting of an injunction in furtherance of the arbitration proceedings.

F On the judgment of Leggatt J. being considered on appeal Sir John Donaldson M.R. had this to say:

G "The judge held that he had jurisdiction to grant such an injunction (emphasis mine) and on the authority of *Pena Copper Mines Ltd. v. Rio Tinto Co. Ltd.* (1911) 105 L.T. 846; [1911-13] All E.R. Rep. 209 he was plainly right so to hold, and indeed it is not challenged in this court that he had the jurisdiction to do so (emphasis mine). The basis of that jurisdiction, which all the cases stress should be used sparingly, is that, notwithstanding that the buyers are a foreign national not carrying on business within the jurisdiction of this court, the fact that they have agreed to submit disputes to English arbitration amounts either to a sufficient submission to the English courts or, alternatively, the creation of a sufficiently close nexus between them and the jurisdiction of the English courts to entitle us to exercise that jurisdiction."

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I The Judgment Creditors' counsel places strong reliance on this passage in the mistaken belief that, what the Master of the Rolls is saying is that the jurisdiction of the English courts, in cases such as these, goes beyond the granting of injunction or orders directly related to the arbitration or to matters arising therefrom to the point where the English courts could entertain suits in substitution for arbitration proceedings.

My view of Clause 37 is that under it both parties could at any time as between themselves have changed the venue of the arbitration and that the only agreement between the parties under the said clause was the submission by either party to arbitration in London according to English law and nothing more. It was no part of the agreement express or implied that legal proceedings could be commenced by either party in the English courts to enforce claims arising under the Charterparty. The reference to "rule of the Court" can only relate to arbitration proceedings and not to legal proceedings in Court intended to adjudicate directly on claims arising under the Charterparty.

In the instant case the Judgment Creditors abandoned their rights of arbitration under the said Clause 37. Once this happened the Judgment Creditors had no other rights accruing to them under the said clause. In the result the Judgment Debtors in my judgment had not under the said Clause 37 submitted themselves to the jurisdiction of the English courts, and so could be sued either in Hong Kong, where the Charterparty was signed, or in Canada, where they are resident and carry on business.

There will therefore be an order in terms of the application. I am obliged to both counsel for their assistance. Costs to the respondents.

Order accordingly.

Solicitors: *Niru & Co.; Lee & Lee.*

**ABDUL RAHMAN v. ATTORNEY-GENERAL,
SINGAPORE**

[A.C.J. (Chua J.) May 20, 1986]

[Singapore – Suit No. 394 of 1984]

Tort – Damages for personal injuries – Admission of liability by defendant – Interlocutory judgment with damages to be assessed – Setting aside interlocutory judgment – Appeal against order of Assistant Registrar.

Government Proceedings – Claim for damages for personal injuries against government – National serviceman – Whether plaintiff on duty at time of accident – Certificate by Minister under s.14(1)(b) of Government Proceedings Act – Government Proceedings Act (Cap. 21) s.14 – Singapore Armed Forces Pensions (Amendment) Regulations, 1981.

A The plaintiff, a national serviceman, suffered personal injuries as a result of a collision with a Ministry of Environment lorry driven by an employee of the government. The plaintiff commenced the action for damages on January 19, 1984. When the accident took place on February 5, 1982, the plaintiff had finished the day's duty at 5 p.m. and had changed into civilian clothing and left his camp. After entering appearance, the defendant paid \$18,000 into Court in satisfaction of the plaintiff's cause of action. The defendant then wrote to the plaintiff's then solicitors stating that the defendant admitted liability. Accordingly no defence was filed and the plaintiff entered interlocutory judgment with damages to be assessed on February 29, 1984. In May 1985, the Singapore Armed Forces paid to the plaintiff the lump sum disability compensation of \$15,720.41 for his disability as a result of the accident.

On August 15, 1985 the Minister responsible for finance issued a certificate under section 14(1)(b) of the Government Proceedings Act.

D On September 27, 1985, the defendant obtained an order from the Assistant Registrar setting aside the interlocutory judgment. The plaintiff appealed against the decision of the Assistant Registrar ordering that: (1) the interlocutory judgment entered on February 29, 1984 be set aside; (2) the sum of \$18,000.00 paid into Court by the defendant on February 9, 1985 and accrued interest thereon be paid out to the defendant; (3) there be no order as to the costs of application.

E Held, allowing the appeal: (1) the plaintiff was in fact not on duty at the material time nor could he be deemed to have been on duty because he was then not on some land, premises, ship, aircraft or vehicle for the time being used for the purposes of the armed forces;

F (2) the certificate issued under section 14(1)(b) erroneously stated that the plaintiff sustained injuries while on duty. The issue of the certificate is a pre-condition to any entitlement to an award. It is clear that the only purpose of the issue was for the government to claim immunity from suit. The certificate was issued 5 months after the decision to make the award was made and was a nullity.

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Case referred to:—

(1) *Bell v. Secretary of State for Defence* [1985] 3 All E.R. 661.

H APPEAL AGAINST ORDER OF ASSISTANT REGISTRAR.

M. A. Valibhoy for the plaintiff.

I *Charles Lim Heng Cheng* (State Counsel) for the defendant.

Cur. Adv. Vult.

Chua J.: This is an appeal by the plaintiff against the decision of the Assistant Registrar ordering that: